

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 90 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA. and
MR.JUSTICE A.R.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

1 to 5: No

COMMISSIONER OF INCOME-TAX

Versus

MONOSCALCO FRANCO

Appearance:

MR MIHIR JOSHI for MR RP BHATT for Petitioner
NOTICE NOT RECD BACK for Respondent No. 1

CORAM : MR.JUSTICE R.BALIA. and
MR.JUSTICE A.R.DAVE

Date of decision: 12/11/98

ORAL JUDGEMENT (per R. Balia, J.)

The Income Tax Appellate Tribunal Ahmedabad Bench

'B' has referred the following two questions of law for the opinion of this court at the instance of Commissioner of Income-tax for Assessment Year 1979-80.

"1. Whether the Appellate Tribunal has been right in law holding that the amount of Rs. 2,10,474 is not includible in the hands of the assessee?

2. Whether the Appellate Tribunal was right in law in holding that the amount of Rs. 17998 being perquisite relating to rent free accommodation allowed to the assessee is not includible as income in the hands of the assessee?"

2. Question No.1 relates to assessee's claim to exemption in respect of amount remitted to him during the assessment year from the foreign collaborator and question No.2 relates to amount paid to the assessee relating to housing during the previous year relevant to assessment year in question. Both the issues have been decided by the Tribunal in favour of the assessee.

3. It has been brought to our notice that in assessee's own case the very same questions had arisen in respect of Assessment Years 1976-77 and 1977-78 in ITR No. 401/83 which has been decided on 24.11.1987 by answering both the questions in favour of the assessee and against the Revenue.

4. Accordingly, these two questions referred to us are also answered in affirmative, that is to say, in favour of the assessee and against the revenue. The reference stands disposed of accordingly. There shall be no order as to costs.
